IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND
THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 24853 of 2004

Between:

M/s Siris India Limited C/o Rallies India Ltd.,
S.D.Road, Secunderabad, Rep.by its Authorised,
Signatory Sri P.D.Paul.

..... PETITIONER

AND

1. Commercial Tax officer Saroornagar Divisional ,
   Saroornagar , Hyderabad.

2. Appellate Deputy Commissioner (CT) Hyderabad,

Rural Division at Nampally, Hyderabad.

3. Addl.Commissioner (CT) Legal Nampally, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or a direction, more particularly one in the nature of writ of Mandamus or any other appropriate writ, order or direction declaring the impugned notice dated 23.12.2004 issued by the 1st respondent as illegal, arbitrary, without jurisdiction and set aside the same and consequently direct the 1st respondent not to recover the disputed tax of Rs.23,84,884/- due for the assessment years 1998-99 (APGST) and 2000-2001 (APGST & CST) from the petitioner pending disposal of the appeals before the 2nd respondent .

Counsel for the Petitioner: MR.BHASKAR REDDY VEMIREDDY

Counsel for the Respondents: SPL GP FOR TAXES

The Court made the following :

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O R D E R

(Per Sri Justice M.H.S.Ansari)

Heard.

Petitioner has questioned the demand notice dated 23.12.2004 demanding arrears of tax for the assessment years 1998-1999 and 2000-2001.

It is the case of the petitioner that for the assessment year
1998-1999 the stay application was rejected by the Additional Deputy Commissioner (CT) and revision against the same has been filed before the Additional Commissioner (CT). With regard to assessment year 2000-2001 the stay application is pending before the Appellate Authority being the Appellate Deputy Commissioner (CT).

Keeping in view that the appeals against the order of assessment for two years in question are pending before the Appellate Deputy Commissioner (CT)-2nd respondent herein, interest of justice would be served if the petitioner is directed to deposit 50% of the tax in dispute pertaining to each of the assessment years in respect whereof appeals have been filed by the petitioner-assessee, the appellate authority shall dispose of the appeals for the

respective years in accordance with law without insisting upon the deposit of the balance disputed tax of 50%.

It is hereby directed that petitioner shall deposit the aforesaid 50% of the disputed tax after giving credit to the amounts, if any, already paid by the petitioner within a period of four weeks from date hereof. Consequently, the impugned demand notice dated 23.12.2004 shall remain in abeyance until disposal of the appeals pending before the appellate authority and thereafter the same shall abide by the final orders that may be passed by the appellate authority.

With the observations as above, writ petition accordingly stands disposed of.

JUSTICE M.H.S.ANSARI

JUSTICE ELIPE DHARMA RAO

30th December, 2004

PGS

To

1. Commercial Tax officer Saroornagar Divisional ,
   Saroornagar , Hyderabad.

2. Appellate Deputy Commissioner (CT) Hyderabad,

Rural Division at Nampally, Hyderabad.

3. Addl.Commissioner (CT) Legal Nampally, Hyderabad.

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THE HON'BLE MR JUSTICE M.H.S. ANSARI

AND
THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 24853 of 2004

(Per Sri Justice M.H.S.Ansari)

30th December, 2004